

#### REMARKS/ARGUMENTS

Claims 1, 5-10, and 14-18 are pending in the application. Claims 2, 3, 4, 11, 12, and 13 have been previously cancelled.

In this Amendment, Applicant has amended claims 1 and 10 and cancelled claims 19, 21, 23-27, 28, 30, 32-36, 37, and 38 from further consideration in this application. Applicant is not conceding that the subject matter encompassed by claims 1, 5-10, 14-18, 19, 21, 23-27, 28, 30, 32-36, 37, and 38, prior to this Amendment is not patentable over the art cited by the Examiner. Claims 1 and 10 were amended and claims 19, 21, 23-27, 28, 30, 32-36, 37, and 38 were cancelled in this Amendment solely to facilitate expeditious prosecution of the pending claims. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by claims 1, 5-10, 14-18, 19, 21, 23-27, 28, 30, 32-36, 37 and 38, as presented prior to this Amendment and additional claims, in one or more continuing applications.

Reconsideration is respectfully requested. Applicants submit that the pending claims 1, 5-10, and 14-18 are patentable over the art of record and allowance is respectfully requested of claims 1, 5-10, and 14-18.

Applicants would like to thank Examiners Truong and Myint for holding a telephone conference with their representative, Janaki K. Davda, on March 18, 2008, at 2:30 pm (EST). During the telephone conference, proposed amendments to claim 1 and the Agarwal patent were discussed. The Examiners suggested some changes to the proposed amendments to clarify the application structure, and Ms. Davda agreed to consider these changes. No other agreement was reached.

Claims 1-3, 5-10, 12, 14-19, 21, 23-28, 30, and 32-38 are rejected under 35 U.S.C. 112, second paragraph, because "a (the) statement has never been associated with a section number". Applicants respectfully traverse, but, in order to expedite prosecution, Applicants have amended claims 1 and 10 to describe that the statement has an associated section number. Claims 2-3 and 12 have been cancelled. Claims 5-9 depend from claim 1. Claims 14-18 depend from claim 10.

Claims 19, 21, 23-27, 28, 30, 32-36, 37, and 38 have been cancelled without prejudice to include in a continuation application. Applicants respectfully request withdrawal of this rejection in light of the amendments.

Claims 19, 21, 23-27, 28, 30, 32-36, 37, and 38 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants respectfully traverse. Also, claims 19, 21, 23-27, 28, 30, 32-36, 37, and 38 have been cancelled without prejudice to include in a continuation application. Therefore this rejection is moot. Applicants respectfully request withdrawal of this rejection.

Claims 1, 3, 9, 10, 12, 18-21, 27, 28, 30, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agarwal et al. (U.S. Patent No. 6,351,742) in view of Kaluskar et al. (U.S. Patent No. 6,985,904) and further in view of Hayes (U.S. Pub. No. 2002/0129035). Applicants respectfully traverse.

Amended claim 1 describes at bind time, storing optimization information in a bind-in structure, wherein the bind-in structure has an associated section number. When executing a statement, when performing bind-in of host variables, data in an application structure received with the statement is compared with optimization information in the bind-in structure, wherein the optimization information includes at least one of data type, length, Coded Character Set Identifier, an array size, an indication of whether conversions are required, and an indication of whether the required conversions are valid, wherein the statement has an associated section number, wherein the application structure describes data, wherein the application structure is used to store data to be retrieved for a fetch statement, and wherein the application structure is used to provide data to be inserted for an insert statement (e.g., Specification, page 8, paragraph 23; page 9, paragraph 29). When there is a match between the data in the application structure and data in the optimization information in the bind-in structure, the statement is executed with the optimization information to perform one of fetching data from the data store and inserting data into the data store, wherein the bind-in structure and the statement have a same section number. When there is not a match between the data in the application structure and the optimization information, optimization information is regenerated and the statement is executed

with the regenerated optimization information to perform one of fetching data from the data store and inserting data into the data store.

The Agarwal patent describes a list of arguments can be passed to the optimizer, a description of the arguments in the database can be passed to the optimizer, and the optimizer then estimates the cost for each execution plan (Col 3, line 66 – Col. 4, line 39). The estimated costs may be generated by use of the previously calculated selectivity value, and the optimizer then selects for execution the execution plan having the lowest relative cost (Col. 4, lines 39-42). At Col. 8, lines 1-22, the Agarwal patent describes a database statement that queries for all entries from Table3 in which the values of the column Table3.col equal  $\arctan(x)$ . The Agarwal patent here *compares values of columns in a table with  $\arctan(x)$* . Applicants respectfully submit that this does not teach or suggest *comparing data in an application structure received with the statement with optimization information in the bind-in structure*. In the Office Action (page 9), the Examiner states that the method of Agarwal is comparing data in an application structure received with the statement (i.e., a possible value of  $x$  which is in a range of values; particularly note that said value is bind-in variable) with optimization information (collected statistics for the Table3.col column). Applicants respectfully submit that the bind-in variable  $x$  of Agarwal does not teach or suggest the claimed application structure. Applicants also submit that the collected statistics for the Table3.col column do not teach or suggest the claimed optimization information in the bind-in structure.

As to, when there is a match between the data in the application structure and data in the optimization information in the bind-in structure, executing the statement with the optimization information, the Examiner cites the Agarwal patent at Col. 4, lines 41-44, which describes that the optimizer then selects for execution the execution plan having the lowest relative cost. First, this execution plan is not selected based on whether there is a match between the data in the application structure and data in the optimization information in the bind-in structure. Second, Applicants respectfully submit that selection of an execution plan does not teach or suggest, when there is a match between the data in the application structure and data in the optimization information in the bind-in structure, executing the statement with the optimization information to perform one of fetching data from the data store and inserting data into the data store, wherein the bind-in structure and the statement have a same section number and, when there is not a match between the data in the application structure and the optimization information,

regenerating optimization information and executing the statement with the regenerated optimization information to perform one of fetching data from the data store and inserting data into the data store.

Also, there is no teaching or suggestion in the Agarwal patent that the bind-in structure used for comparison with the application structure has a same section number as the statement.

The Kaluskar patent describes at Col. 3, lines 57-64, that if a match is not found, then compilation proceeds. Continuing with compilation does not teach or suggest, when there is not a match between the data in the application structure and the optimization information, regenerating optimization information and executing the statement with the regenerated optimization information to perform one of fetching data from the data store and inserting data into the data store.

The Hayes patent application does not cure the defects of the Agarwal and Kaluskar patents.

Thus, amended claim 1 is not taught or suggested by the Agarwal patent, the Kaluskar patent or the Hayes patent application, either alone or in combination.

Claim 10 describes bind-out, rather than bind-in (as described in claim 1). Applicants respectfully submit that claim 10 is not taught or suggested by the by the Agarwal patent, the Kaluskar patent or the Hayes patent application, either alone or in combination, for at least the same reasons as were discussed with respect to claim 1.

Dependent claims 9 and 18 each incorporate the language of independent claims 1 or 10 and add additional novel elements. Therefore, dependent claims 9 and 18 are not taught or suggested by the Kaluskar patent or the Crone patent, either alone or in combination, for at least the same reasons as were discussed with respect to claims 1, and 10. Claims 3 and 12 have been cancelled without prejudice.

Claims 5, 14, 23, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agarwal et al. in view of Kaluskar and further in view of Hayes and further in view of Desai et al. (U.S. Patent No. 6567816). Applicants respectfully traverse. Additionally, Applicants respectfully submit that the rejection is moot in light of the new amendments.

The Desai patent does not cure the defects of the Agarwal patent, the Kaluskar patent, the Hayes patent. For example, the Desai patent does not teach or suggest, the subject matter of

claims 1 and 10. Therefore, claims 1 and 10 are not taught or suggested by the Agarwal patent, the Kaluskar patent, the Hayes patent application or the Desai patent, either alone or in combination.

Dependent claim 5 and 14 each incorporate the language of independent claims 1 or 10 and add additional novel elements. Thus, claims 5 and 14 are not taught or suggested by the Agarwal patent, the Kaluskar patent, the Hayes patent or Desai patent, either alone or in combination, for at least the same reasons as were discussed with respect to claims 1 and 10.

Claims 6-8, 15-17, 24-26, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agarwal et al. in view of Kaluskar and further in view of Hayes and further in view of Jordan II et al. (U.S. Patent No. 5,875,442). Applicants respectfully traverse.

The Jordan II patent does not cure the defects of the Agarwal patent, the Kaluskar patent, the Hayes patent. For example, the Jordan II patent does not teach or suggest the subject matter of claims 1 and 10. Therefore, claims 1 and 10 are not taught or suggested by the Agarwal patent, the Kaluskar patent, the Hayes patent or the Jordan II patent, either alone or in combination.

Dependent claims 6-8 and 15-17 incorporate the language of independent claims 1, 10, 19, and 28 and add additional novel elements. Thus, claims 6-8 and 15-17 are not taught or suggested by the Agarwal patent, the Kaluskar patent, the Hayes patent or the Jordan II patent, either alone or in combination, for at least the same reasons as were discussed with respect to claims 1 and 10.

### Conclusion

For all the above reasons, Applicants submit that the pending claims 1, 5-10, and 14-18 are patentable over the art of record. Applicants have not added any claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0460.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

Dated: March 25, 2008

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